## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA COLUMBIA DIVISION

Thomas Harley, #162293,	)
Petitioner,	) C.A. No.: 3:10-2296-RBH
	)
VS.	) ORDER
Warden of Broad River Correctional	)
Institution,	)
Respondent.	)

Petitioner, a state prisoner proceeding *pro se*, brought this civil action which has been construed as a petition pursuant to 28 U.S.C. § 2254 for habeas relief. This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Joseph R. McCrorey, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

Neither party has filed objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not

required to give any explanation for adopting the recommendation. See Camby v. Davis, 718

F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an

objection. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310 (4th Cir. 2005)

stating that "in the absence of a timely filed objection, a district court need not conduct de novo

review, but instead must 'only satisfy itself that there is no clear error on the face of the record

in order to accept the recommendation." (quoting Fed. R. Civ. P. 72 advisory committee's

note).

After a thorough review of the record in this case, the Court finds no clear error.

Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and

incorporated by reference. Therefore, it is

**ORDERED** that the habeas petition in the above-captioned case is dismissed without

prejudice and without issuance and service of process.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED because the

Petitioner has failed to make "a substantial showing of the denial of a constitutional right." 28

U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

s/R. Bryan Harwell

R. Bryan Harwell

United States District Judge

Florence, South Carolina

November 12, 2010

2